

REMARKS

In the Office Action dated October 23, 2003, all of the pending claims were finally rejected. Specifically, claims 11 and 17 were finally rejected for being directed to non-statutory subject matter. Also, claims 1-12 and 15-20 were finally rejected for being unpatentable over U.S. Publication No. 2002/0112171 to Ginter et al. (hereinafter Ginter) in view of U.S. Patent No. 6,226,618 to Downs et al. (hereinafter Downs).

In response, Applicant has canceled all of the previously pending claims and has presented new claims 21-27 for consideration by the Examiner. No new matter has been added.

New claims 21-27 have been added to point out the features which distinguish this invention over the cited art, and to more clearly define the structure and cooperation of structure for the present invention. Claims 21-27 are now pending.

Rejections under 35 U.S.C. § 101

Claims 11 and 17 were rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Specifically, the Examiner contended that these claims were directed to an abstract idea. With the cancellation of these claims, the issue is now moot.

Insofar as the new claims are concerned, Applicant contends they are all expressly directed toward either a method or a system that involves the electronic transfer of files. Applicant believes this to be statutory subject matter.

Rejections under 35 U.S.C. § 103

Claims 1-12 and 15-20 were rejected under 35 U.S.C. § 103(a) for being unpatentable over Ginter in view of Downs.

In rejecting these claims, the Examiner pointed out what was not disclosed by Ginter. Specifically, the Examiner stated that:

“Ginter et al. do not expressly disclose the two-part file is selectively encrypted by a seller and a transaction agency for transfer of complete file control to a buyer, said decrypting step is accomplished by the transaction agency for the buyer or wherein the second part was encrypted by the seller for decryption by the buyer.”

According to the Examiner, the Downs reference discloses the aspects noted above, that are not expressly disclosed by Ginter. Applicant disagrees, and contends Downs is inappropriately applied to provide the disclosure missing from Ginter. Moreover, new claim 21 contains additional limitations that are not disclosed by either Ginter or Downs.

As now claimed for the present invention, a method for transferring a file from a seller to a buyer employs a single public key, and a single private key. On the other hand, the Downs reference contemplates the use of at least two public keys. Quite

unlike the invention set forth in new claim 21, the Downs invention requires decryption and re-encryption of a previously encrypted file (see col. 3, lns 41-55; col. 18 & 19 table step 144; and Abstract). Importantly, this re-encryption process requires the use of at least two different public keys. The present invention uses no such scheme. Consequently, the teachings of Downs, when combined with Ginter, do not lead to the present invention.

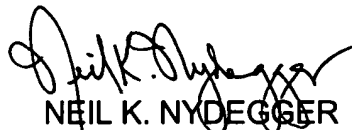
In addition to using only a single public key, the new claims for the present invention require entirely different schemes for encrypting and decrypting the file that is being transferred from a seller to a buyer. Specifically, for the present invention, decryption requires the concerted efforts of two different entities (i.e. the transaction agency and the buyer). This is done using two different type keys (i.e. a public key and a private key, respectively). Furthermore, for one embodiment of the present invention, encryption also requires the concerted efforts of two different entities (i.e. the seller and the transaction agency) using the same two keys (i.e. the private key and the public key, respectively). Most importantly, the same public key is provided by the transaction agency for the seller for encryption, and for the buyer for decryption. Neither Ginter nor Downs either teach or suggest schemes for encryption or decryption, such as now claimed for the present invention, wherein the concerted efforts of three different entities is required.

The references cited by the Examiner, but not relied on for the rejection of claims, have been noted.

In conclusion, Applicant respectfully asserts that claims 21-27 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Dated this 20th day of January, 2004

Respectfully submitted,



NEIL K. NYDEGGER
Attorney for Applicant
Registration No. 30,202

NYDEGGER & ASSOCIATES
348 Olive Street
San Diego, California 92103
Telephone: (619) 688-1300